IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 438 OF 1999

Mohd.Adil Mohd.Umar Bhatkar. ...Applicant
V/s.
The State of Maharashtra. ...Respondent

Mr.Ganesh Bhujbal holding for Prakash Naik for Applicant.
M.M. Deshmukh, APP for State.

CORAM : V.M. KANADE, J.

DATED : JANUARY 16, 2006

P.C. :-

. Heard learned Counsel for the applicant and learned APP for the State.

. The applicant is challenging the Judgment and Order passed by the Special Judge for Greater Bombay in NDPS Special Misc.Application No.266/98 filed in NDPS Special Case No.244/92. By the said order, the Special Judge rejected the application which was filed by the present applicant for return of cash which was seized from him. The applicant was acquitted by the trial Court and thereafter, he had filed the application for return of the cash which was attached from his house.

2. Learned Counsel appearing on behalf of the applicant submitted that the trial Court rejected the application merely on the ground that one of the accused in the said NDPS case viz. accused no.9 was absconding and was not tried alongwith other accused and therefore, as long as the said accused was not tried and decided, the cash was directed to be kept in PLA Account.

3. It is an admitted position that an amount of Rs.3,56,550/- was attached from the house of the applicant. It is further admitted that he was acquitted by the Special Judge as the prosecution had not proved the charges which were levelled against him.

4. In my view, since the cash was attached from the residence of the applicant, the trial Court ought to have directed that the cash should be returned to him as no proceeding against him was pending either in the trial Court or in this Court.

5. In the result, the application is allowed. The order passed by the trial Court dated 13th November,

1998 in NDPS Special Misc.Application No.266/98 is set aside. The respondents are directed to return the cash of Rs.3,56.550/- which was attached from the house of the applicant to him within a period of four weeks. The applicant, however, to execute a bond for the said amount and give an undertaking that in the event, accused no.9 is tried and any adverse order is passed against the present applicant, he may return the said amount.

. With these direction, Criminal Application is allowed and disposed of, accordingly.

(V.M. KANADE, J.)